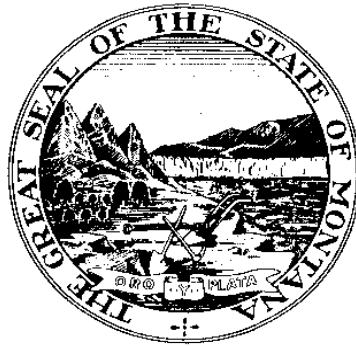


ACCOUNTING and REPORTING MANUAL for CANDIDATES and CAMPAIGN TREASURERS



Prepared and Published by
Commissioner of Political Practices
1205 Eighth Avenue
Post Office Box 202401
Helena, MT 59620-2401
Telephone: (406) 444-2942
Fax number: (406) 444-1643
Website: www.politicalpractices.mt.gov

2005 Edition
Effective October 1, 2005

This guide is intended only as a summary to aid understanding of Campaign Finance and Practices Laws. For complete requirements, consult Montana Code Annotated Title 13, Chapters 35 and 37.

INTRODUCTION

The purpose of this manual is to provide a practical guide to campaign finance accounting and reporting procedures for candidates for elective office, the treasurers of their campaigns, and others who are involved in the election process.

This manual ***is not a substitute*** for the laws and rules governing campaign finance and practices. Specific citations are noted throughout the manual. If precise legal language is required, users of this manual need to consult Montana Code Annotated (MCA) and Administrative Rules of Montana (ARM).

MCA Title 13, chapter 37 provides for public disclosure of contributions and expenditures made to influence elections; therefore, accurate disclosure of campaign transactions requires: (1) an understanding of the laws and rules, and (2) the maintenance of detailed accounts from which periodic finance reports can be prepared.

This manual is divided into two major sections: CAMPAIGN ACCOUNTING and CAMPAIGN REPORTING.

Part 1, CAMPAIGN ACCOUNTING, discusses the responsibilities of campaign treasurers, outlines basic record maintenance practices and accounting principles, defines and provides examples of campaign contributions and expenditures, and describes contribution limitations as well as contributions that are illegal to receive.

Part 2, CAMPAIGN REPORTING, identifies the different statements and reporting forms required for filing, who must file them, how the various forms are to be completed, and when and where these forms are to be filed.

Candidates and their campaign treasurers who have questions concerning campaign accounting and reporting are urged to write, call, or fax the office of the Commissioner of Political Practices. The address, telephone number, and fax number are provided on the front cover of this manual.

PART 1

CAMPAIGN ACCOUNTING

CAMPAIGN TREASURER

Appointment.

Each candidate for public office ***must*** appoint a campaign treasurer. [Montana Code Annotated (MCA) §§ 13-37-201 and 203.] The only exceptions are for certain school districts and certain special districts.¹ A treasurer must be registered to vote in Montana.

While a candidate bears the ultimate responsibility for the administration and conduct of the campaign, the treasurer, as the candidate's agent, performs the important functions of depositing and disbursing funds, keeping accurate accounts, and administering the financial affairs of the campaign. A candidate may appoint himself or herself as treasurer or deputy treasurer.

Certification.

The appointment of a treasurer is one of the first steps in the organization of any campaign. The name of the treasurer must be certified to the Commissioner of Political Practices and to the election administrator of the candidate's resident county. [MCA § 13-37-201; see also Part 2, Campaign Reporting section of this manual.]

Timely certification is important for several reasons. First, the treasurer is prohibited from performing any duty until a certification statement is filed. Second, the candidate's name cannot be printed on the ballot until all statements and reports are properly filed. [MCA § 13-37-126.]

Only an appointed and certified treasurer or an appointed and certified deputy treasurer² may make deposits to or draw checks on the campaign account. [Administrative Rules of Montana (ARM) 44.10.503.] Some candidates find it convenient to appoint themselves as deputy treasurers so that they, in addition to their treasurers, may draw checks on their campaign accounts. In order to make deposits or write checks on the campaign account, a candidate *must be* either the treasurer or deputy treasurer.

If more than one person is depositing funds or writing checks on the campaign account, obviously closer coordination is required in order to ensure accurate accounting as well as timely preparation and filing of campaign finance reports.

Keeping accounts.

The campaign treasurer must keep detailed accounts and the accounts must be:

....current within not more than 10 days after the date of receiving a contribution or making an expenditure, except that accounts shall be current as of the 5th day before the date of filing a report . . .

[MCA § 13-37-208(1).]

In addition to accounting and reporting duties required by law, the campaign treasurer for a candidate is required to preserve campaign accounts and reports for a period coinciding with the term of office that the candidate is seeking **or** for four (4) years, whichever is longer. [MCA §§ 13-37-208(3) and 13-37-231(2).]

CAMPAIGN DEPOSITORY

Designation.

At the outset of a campaign, each candidate must designate one primary depository for the campaign. This depository may be a bank, a credit union, a savings and loan association, or a building and loan association; however, this

depository must be authorized to transact business in Montana and must offer accounts on which the equivalent of a check may be drawn. ***Campaign accounts must be completely separate from any personal accounts***; however, a candidate's personal account and the campaign account may be in the same institution. [MCA § 13-37-205.]

It is essential that ***all*** monetary receipts—***including a candidate's own funds***—be deposited in the campaign account and that all money spent by the campaign be by checks drawn on this account. (The only exception is the petty cash fund.) Proper use of the campaign checking account will make record keeping and reporting much easier.

All funds must first be deposited into the campaign checking account; however, a candidate may have more than one account in the primary depository, for instance, a savings account or payroll account. A secondary depository is permitted in each county where an election is held and in which the candidate participates. With the specific written authorization provided by law, a deputy treasurer may make deposits to and expenditures from a secondary depository.³

Certification.

Immediately after designating a primary campaign depository and after appointing a campaign treasurer, a candidate must complete and file a Statement of Candidate Form C-1 or C-1-A with the Commissioner of Political Practices and with the appropriate county election administrator certifying the name of the treasurer. [MCA § 13-37-201.]

CAMPAIGN RECEIPTS

Contribution defined.

Contributions from supporters of the candidate are the principal source of campaign receipts. A contribution is defined by law, in part, as "an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election . . ." [MCA § 13-1-101(6).] (Not all donations are considered to be contributions; see page 9 of this manual for examples of donations/items not included in the definition of "contribution.")

Designation of primary and general election contributions.

Contributions received by a candidate prior to and on the day of a primary election are designated as primary election contributions and are subject to the aggregate contribution limits for the primary election.

During a primary election period, a candidate in a contested primary *may* receive contributions designated for the general election; *however, those contributions are subject to the contribution limits for the general election and must be maintained in a separate account. **General election contributions may not be used until after the primary election.*** If a candidate has accepted general election contributions and, thereafter, loses a contested primary election, all general election contributions must be refunded to contributors.

In-kind contributions designated for the general election may not be accepted during the primary election period.

Contributions received by a candidate after the day of the primary election are designated as general election contributions and are subject to the aggregate contribution limits for the general election. A candidate *may* continue to receive contributions designated as primary election contributions after the primary election

and subject to the contribution limits *but only for the purpose of paying primary election debt*. [ARM 44.10.330(2)(b)(c)(d).] (For information regarding contribution limits, see pages 14 through 16 of this manual.)

Depositing contributions.

All monetary contributions (cash or checks) received by anyone involved with a campaign must be transmitted to the treasurer (or deputy treasurer) within five (5) days after the contribution is received. The treasurer must then deposit all funds within five (5) business days of receipt. This includes money that candidates contribute to their own campaigns.

Statement of contributions.

Prior to the time a deposit to the campaign account is made, the treasurer is required to prepare a statement showing the amounts received from each contributor. [MCA § 13-37-207(2).] This statement, the receipt form for cash contributions deposited at the same time, and a deposit slip for the deposit must be kept together as part of the campaign records maintained by the treasurer.

Contributions by check.

Checks are preferable to contributions of cash. A simple list of the names of contributors and the amounts contributed would be a satisfactory method of maintaining a record of contributions received by checks; however, the easiest and best way to satisfy the statement of contributions requirement is to make photocopies of checks as they are received. This ensures that contributions are properly credited and also preserves useful information for the campaign.

Cash contributions.

Receipts must be written for any contributions of currency and coin of \$25 or more. Cash receipts must show: (1) the contributor's full name, (2) complete

mailing address, (3) occupation, and (4) employer; (5) the exact amount received with (6) date of receipt; and (7) the name of the individual who received the contribution on behalf of the candidate. [ARM 44.10.505.]

While receipts are required only for cash contributions of \$25 or more, the best practice is to write a receipt for all cash contributions whenever possible. In this way, a treasurer can determine if or when an individual's contributions reach reporting thresholds. Written receipts also will assist candidates in identifying the sources of funds contributed to their campaigns.

Recording contributions.

In addition to the statement and its supporting documents, a campaign treasurer must keep a detailed accounting of all contributors. Any system of record keeping may be used as long as it maintains the information required by law and necessary for filing reports.

A card file is a simple way to maintain information on contributors and their individual contributions. Such a system would have a card for each contributor giving the full name, mailing address, occupation, employer, date of receipt, amount and nature of donation (currency, check, loan, in-kind, dinner ticket, fundraiser purchase, etc.).

Contributor card.

A contributor card might look like this:

Brown, Charles			Owner
225 17th Avenue			Charlie's Pizza Place
Anywhere, MT 59000			
			<u>Total to date</u>
2/3/04	\$35	check	35
3/7/04	10	cash at fundraiser	45
5/5/04	35	in-kind: pizza/volunteers	80
5/2/04	50	in-kind: paint & signs	\$130

In campaigns with data processing capabilities, the same information can be entered into a computer spreadsheet or database rather than on a card. Campaign finance reporting can also be simplified with the use of a computer. [See Part 2, Campaign Reporting section of this manual.]

Loans.

By legal definition, any loan to a campaign is considered a contribution. As such, a candidate and the campaign treasurer can accept and deposit only those loans that are within the legally imposed limits on contributions. [MCA § 13-37-216; see pages 14 through 16 of this manual.] A loan, however, is a contribution only to the extent that it remains outstanding. For example, if an individual loans a gubernatorial campaign \$400 of which \$300 is repaid, that individual's contribution is then \$100 (assuming that no further contributions are made). Again, either a card or a computer entry must be made showing the full name, mailing address, occupation and employer of the lender, and the date and amount of the loan.⁴

Candidate's funds.

Many candidates contribute their own money to their campaigns. A candidate has the choice of recording and reporting his or her own donations as either "contributions" or "loans," depending on whether or not the candidate wishes to be reimbursed from the campaign account for personal contributions. If the candidate expects to be repaid from the campaign account at a later date, these donations should be recorded and reported as loans.

Mass collections from fundraising events.

Mass collections from fundraising events (such as passing the hat or selling campaign pins, raffle tickets, or baked goods) also need to be recorded and reported, but this is often done in a different way from the accounting of other receipts. Usually, the specific source of money at these events will not be known;

therefore, the campaign treasurer will account for proceeds from such fundraising activities by recording: (1) the date of the event, (2) a description of the event, (3) the approximate number of people attending, and (4) the total amount of contributions received. [ARM 44.10.521.]

There is, however, an ***exception to this rule***. If an individual donation is \$35 or more, each donation or purchase must be recorded and reported individually.

In-kind contributions.

Some donations to a campaign are in-kind contributions. These also must be accounted for and reported in the same manner as other contributions, and the in-kind item or service must be identified as to its nature. In addition, ***remember that in-kind contributions do count toward the limitations set out in law***. [MCA § 13-37-216; see pages 14 through 16 of this manual.]

Frequently, in-kind contributions come in the form of services for which charges are usually made but which are rendered to the campaign free of charge or at a lesser amount than is customary. [See ARM 44.10.321(2) for a full definition and explanation of in-kind contributions.] In such circumstances, most campaigns rely on the donor for a fair assessment of the value of the services provided, in keeping with the rules for making such assessments. [ARM 44.10.513 and 44.10.533.]

A donation of goods is also an in-kind contribution. For instance, a friend might donate beef for a fundraiser. The fair market value of the beef would be recorded as an in-kind contribution. On the other hand, if something were sold to the campaign at less than fair market value, the difference would be recorded as an in-kind amount.

Certain small in-kind contributions, such as food brought to a potluck dinner or small items donated to a garage sale, need not be reported, although the campaign may wish to keep a record of them.

Sometimes goods donated to a candidate are intended to be sold, and an art auction fundraiser is a common example. In such cases, the value of the donated piece of art is recorded and reported as an in-kind contribution by the donor. Whoever buys the art object at the auction also makes a contribution to the candidate in the amount paid for the item. This information must be recorded and reported as well. Contributions limits do apply, both to the in-kind contribution and to the contribution made by the purchaser.

Interest, rebates, and refunds.

Another kind of receipt that is not a contribution to a campaign may be interest earned on checking or savings accounts. The interest earned must be recorded and reported so accounts will balance. Other kinds of receipts to a campaign might include rebates and refunds. Although they are not contributions, they are receipts to the campaign account and must be recorded and reported.

Earmarked contributions.

An earmarked contribution, which is legal, is one received from a person other than the original donor. An earmarked contribution must be recorded and reported regardless of amount in the name of the person who originally provided the money. In addition, the name of the person who passed the contribution along must be recorded and reported. [See Part 2, Campaign Reporting section of this manual.]

An example of an earmarked contribution would be money sent to a state political committee by a national political committee with the stipulation that it be equally divided among designated candidates. Since these transactions lead to more complicated record keeping, earmarked contributions are discouraged.

Donations/items not considered contributions.

Some things are not included in the legal definition of "contribution." For instance, any services provided by individuals who volunteer their time without compensation need not be recorded or reported. Meals or lodging provided by individuals in their private homes for a candidate or other individuals are not considered contributions. [MCA § 13-1-101(6)(b).]

Payments made by a candidate for filing fees, personal travel expenses, food, lodging, etc. for themselves or their families are not considered contributions; however, a candidate may choose to report these payments as expenditures so that these and similar expenses can be reimbursed from the campaign account.

LIMITATIONS ON CONTRIBUTIONS

Unlimited contributions.

There is no limit on the amount a candidate may contribute to his or her own campaign.

Contribution limitations.

The passage of Initiative 118 in 1994 limited the amount that individuals (other than the candidate), political committees—both political action committees (PACs) and political party committees—may contribute to a candidate. [MCA § 13-37-216.]

Limitations are no longer for the entire election cycle but are now for EACH election: primary and general.

“Election” is defined as: the general election OR a primary election that involves two or more candidates for the same nomination. If there is not a contested primary, there is only ONE election to which the contribution limits apply. If there is a contested primary, then there are TWO elections to which the contribution limits apply. [MCA § 13-37-216(5).]

Individual and political committee limitations.

Individual and political committee contribution limits for **EACH** election are:

Governor/Lt. Governor	\$	500
Other statewide offices ⁵		250
Other public offices		130

These limitations include **both** monetary and in-kind contributions.

Aggregate political party committee limitations.

Political party committees are defined legally as independent committees; that is, committees organized for the primary purpose of supporting or opposing various candidates and/or issues over a continuing period of time.

Contributions to candidates by political party committees are subject to the following **aggregate limits from ALL political party committees:**

Governor/Lt. Governor	\$	18,000
Other statewide offices ⁵		6,500
Public Service Commissioner		2,600
State Senate		1,050
Other public offices		650

These limitations apply to **EACH** election: the primary and the general. These limitations include **BOTH** monetary and in-kind contributions.

It is the responsibility of the campaign treasurer to ensure that contributions from all political party committees do not exceed the limit for each election period.

Aggregate PAC limitations for state legislative candidates.

PACs are defined legally as independent committees, that is, committees organized for the primary purpose of supporting or opposing various candidates and/or issues over a continuing period of time.

A further limitation is imposed on state legislative candidates as to the ***total*** contributions they may accept from ***all*** political committees (other than political party committees). [MCA § 13-37-218.] This limitation is commonly referred to as the total PAC contributions allowed a legislative candidate. These limitations are subject to change based on an inflation factor and are published by the Commissioner as an administrative rule prior to the time legislative candidates begin their campaigns. [ARM 44.10.331.]

For the 2006 election cycle, the aggregate limit a legislative candidate may accept from all PACs is \$2,300 for Senate candidates and \$1,400 for House candidates. NOTE: These limits are for the ENTIRE election cycle. IN-KIND CONTRIBUTIONS ARE COUNTED IN THESE AGGREGATE LIMITS.

ILLEGAL CONTRIBUTIONS

Corporate contributions.

Corporations are prohibited from making a contribution to a candidate. [MCA §§ 13-35-227 and 236.] Most candidates and large corporations know this; however, some campaign supporters may unwittingly write contribution checks on their business accounts. In such cases, the campaign treasurer will have to verify

whether they are individual or corporate contributions, potentially a time-consuming task.

Looking at the check itself will not reveal in every case whether it is drawn on a corporate account—for instance, many corporations are designated in ways other than the familiar "Inc." A good practice is simply not to accept checks drawn on any business account and to ask, instead, for personal checks.

Any check deposited by a campaign treasurer that is drawn on a business account and verified not to be a corporate account nonetheless must be recorded (and reported as necessary); and if the business or organization making the contribution has a primary purpose other than influencing elections, by virtue of making the contribution it becomes an Incidental Committee with reporting responsibilities. To avoid imposing that reporting requirement on one's contributors, a candidate would be well advised to ask, instead, for personal checks.

If a corporate check should be deposited inadvertently, a refund must be made immediately on discovery. The practice of photocopying all checks coming into the campaign is especially helpful in this instance. A copy of the refund check should be submitted immediately to the Commissioner of Political Practices.

Anonymous contributions.

An anonymous contribution is illegal in Montana. (This differs from an earmarked contribution for which the donor is known; see pages 13 and 14 of this manual.)

The identities of contributors of less than the threshold reportable amount of \$35 need not be disclosed on reporting forms; however, campaign records must show such known persons. Contributions must be refused when the source is not known or when the person offering money wishes not to be known. Use of an intermediary

to pass funds along from a third party as a means of concealing the identity of the true donor is also illegal. Neither a candidate nor a committee may knowingly accept a contribution in a name other than that of the person who is the actual contributor. [MCA § 13-37-217.]

CAMPAIGN EXPENDITURES

Definition.

An expenditure is defined in the law as "a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election." [MCA § 13-1-101(10)(a).] As such, an expenditure means just about anything a candidate spends in support of his or her campaign.

All money spent must be by check drawn on the campaign account—except for money from petty cash. The person who draws the check must be an appointed treasurer or an appointed deputy treasurer who has been certified to the Commissioner of Political Practices and to the election administrator of the appropriate county. [See Part 2, Campaign Reporting section of this manual.]

A small campaign might be able to note all expenditures in its checkbook, but a larger campaign might need to introduce cards or ledgers—manually or electronically—to maintain accounting control. For example, an expenditure card might be prepared for each recipient of campaign checks. The cards or ledgers could then be organized by categories of expenses that would assist the campaign in knowing where its resources are being spent and would be helpful in preparing reports.

With computer capabilities, the tasks of recording, aggregating, and reporting expenditures are made easier. In any case, expenditures must be recorded showing: (1) the full name and (2) the complete mailing address—for each person

or business to whom an expenditure is made—along with (3) the date, (4) the amount, and (5) the purpose.

Petty cash fund.

A petty cash fund is permitted under law. A statewide candidate may establish a \$100 petty cash fund that may be replenished to that figure each week. For other than statewide candidates, a \$25 petty cash fund is allowed which also may be replenished each week. In both cases, money from the fund may be spent for office supplies, transportation expenses, postage stamps, and other small necessities in an amount less than \$25. Petty cash may not be used for the "purchase of time, space, or services from any communications medium." [MCA § 13-37-215.]

Each time an expenditure is made from the petty cash fund, a ***receipt voucher*** must be completed showing the date money was withdrawn, the exact amount taken and by whom, the name of the person or vendor to whom paid, and the purpose. (Office supply stores have such petty cash fund receipt vouchers.)

When the fund begins to run low, it may be replenished—but not more often than once a week—by drawing another check for the amount of the total of the vouchers. For example, if a \$100 fund is down to \$8.73, the total of the vouchers for money expended should be \$91.27. A check for that amount could be written to bring the fund back to \$100.

Vouchers should be attached to the canceled check and maintained as part of the permanent records of the campaign. [ARM 44.10.503.] The total of petty cash expenditures to be recorded and eventually reported will be the total of checks written to petty cash.

Payroll account.

Large campaigns that employ salaried staff may find a separate payroll account helpful. Such an account may be established in the same depository as the regular campaign account.

In calculating a payroll, the campaign treasurer would include the gross salary of staff, the employer's contribution to Social Security (FICA), workers' compensation, unemployment insurance, and any other employer liability. The total of the payroll would then be deposited periodically into the payroll account (for campaigns using such an account) by a check drawn on the regular account. As such, this check is not an expenditure but a transfer of funds. Checks would then be drawn on the payroll account to pay staff members the net amounts due them.

The amounts for employee withholding, along with the amounts for employer obligations, would remain in the payroll account until these funds were required to be remitted to state and federal revenue departments. As checks are drawn on the payroll account, each amount would be recorded as a campaign expenditure.

While a payroll account introduces more complexity to campaign accounting, its use conforms to basic accounting principles and has the benefit of keeping dedicated money out of the regular account—thus avoiding the appearance of having more funds to spend than is actually the case.

Savings account.

Excess funds currently not needed by a campaign may be deposited into savings or other interest-bearing accounts or may be used to purchase certificates of deposit. To do so, a check would be drawn on the campaign checking account but would not be reported as an expenditure.

Bank service charges.

Bank service charges, if any, are an expense that obviously would not be made by a check drawn on the campaign account; however, bank service charges should be recorded in the accounts to ensure balanced books and should be reported as expenditures on financial reports.

LIMITATIONS ON EXPENDITURES**Surplus campaign funds.**

Surplus campaign funds must be disposed of within 120 days after the time of filing the closing campaign report. [MCA § 13-37-240.] Surplus campaign funds cannot be contributed to another campaign, including the candidate's own future campaign, nor can they be used for personal benefit.

"Personal benefit" is defined as "a use that will provide a direct or indirect benefit of any kind to the candidate or any member of the candidate's immediate family." [MCA § 13-37-240(2).]

PART 2

CAMPAIGN REPORTING

STATEMENTS AND REPORTS

Obtaining forms.

A candidate may obtain a **Statement of Candidate** form from the office or website of the Commissioner of Political Practices or from a county election administrator. **Candidate Campaign Finance Report** forms and other reporting forms may also be accessed on the Commissioner's website: www.politicalpractices.mt.gov .

Who must file a Statement of Candidate form.

The statement filing requirements of MCA Title 13, chapter 37 apply to every candidate for public office ***with the exception*** of those associated with certain school districts as well as certain special districts. [MCA § 13-37-206; also see References section at the back of this manual.] A statement must be filed within five (5) days after receiving or spending money, appointing a campaign treasurer, or filing for office, whichever occurs first.

A Statement of Candidate form (either Form C-1 or C-1-A) certifies a candidate's treasurer and depository and provides other information required by the Commissioner of Political Practices. [MCA §§ 13-37-201 and 205.]

Who must file Candidate Campaign Finance Reports.

The campaign finance report filing requirements of MCA Title 13, chapter 37, apply to all candidates ***with the exception*** of county, municipal, and school candidates spending ***less than \$500*** in all elections in a campaign. [MCA § 13-37-226(4); see

also pages 25 and 26 of this manual.] All other candidates must file periodic reports disclosing campaign contributions and expenditures as well as other information required by law. [MCA §§ 13-37-229 and 230.]

A candidate uses Form C-5, Candidate Campaign Finance Report, to report their campaign's financial activities. A candidate also uses a special notice (Form C-7) for large contributions received close to election day. [See pages 27 through 34 of this manual.]

Where to file statements and reports.

All statements and reports of candidates must be filed with the Commissioner of Political Practices: mailed to Post Office Box 202401, Helena, Montana 59620-2401 or hand-delivered to 1205 Eighth Avenue, Helena.

In addition, a candidate must also file a copy with the election administrator of the candidate's resident county (with the exception of district judge candidates).

A candidate for district judge, in addition to filing with the Commissioner of Political Practices, must file a copy of the statement and financial reports with the election administrator in the county where the election takes place. If the election is held in more than one county, then the appropriate election administrator for filing is the county having the largest population. [MCA § 13-37-225(1) and ARM 44.10.401(2)(a).]

If hand-delivered to the Commissioner and the appropriate county election administrator, all statements and reports meet filing deadlines if received before 5:00 p.m. on the date due. If mailed, statements and reports must be deposited in

"a U. S. Post Office, postage pre-paid, no later than 5:00 p.m. three (3) days before

the prescribed filing date." [ARM 44.10.401(2)(c).]

Faxed statements and reports are considered to be filed in a timely manner if received by the filing deadline; however, a hard copy with an original signature should also be mailed to complete the filing.

In addition, a candidate's treasurer must retain copies of all statements and reports for a period that coincides with the term of office the candidate is seeking or for four (4) years, whichever is longer. [MCA § 13-37-231(2).]

Report periods and due dates.

The law specifies the time periods covered by reports as well as the due dates for filing reports. [MCA §§ 13-37-226 and 13-37-228.] The law is somewhat complicated because time periods and due dates for reporting vary, depending upon whether a candidate is statewide, state district, or local.

To make filing easier, a specific calendar of reporting periods and due dates is developed prior to the election cycle for each category of candidate. Reporting calendars are available on the Commissioner's website.

Failure to file statements/reports.

If a candidate fails to file statements and reports as required by law, the candidate's name "may not be printed on the official ballot for an election." [MCA § 13-37-126(1).] Further, even if elected, a candidate will not receive a certificate of election unless the statements and reports have been properly and timely filed. Without a certificate of election, an individual may not assume the powers and duties of office. [MCA § 13-37-127.]

PREPARING STATEMENTS

FORM C-1 STATEMENT OF CANDIDATE.

This is the form that ***all candidates for statewide and state district offices*** in Montana must complete and file. (County, municipal, and school candidates use form C-1-A and that form is discussed in the next section.)

Form C-1 is designed to be self-explanatory; but instructions for filing are provided. If any changes occur after the original statement has been filed, a candidate must file an amended form providing the new information. For example, a candidate may remove a campaign treasurer, add a deputy treasurer, or change a campaign depository whenever desired. These changes, or a change of address or telephone number, should be filed within five (5) days after a change is made. [MCA § 13-37-204, ARM 44.10.403(2).]

FORM C-1-A STATEMENT OF CANDIDATE.

This is the form that ***all candidates for county, municipal and school offices*** must complete and file, with the exception of certain school districts and certain special districts. [See note 1, Reference section, at the end of this manual.]

All information concerning the completion and filing of Form C-1 is applicable to completion of Form C-1-A, and the section above pertaining to the completion of Form C-1 should be consulted when completing the Form C-1-A.

In addition, Form C-1-A has an Affidavit of Reporting Status section concerning anticipated campaign contributions or expenditures, and this affidavit must be completed by the candidate. [ARM 44.10.407.]

Candidates for county, municipal, and school offices are required to file campaign finance reports:

....only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500....[MCA § 13-37-226(4)].

Accordingly, a candidate will complete the affidavit section by marking Box A if ***no funds*** will be received or expended (except for the filing fee); marking Box B if funds received or expended ***are not expected to exceed \$500***; or marking Box C if funds received or expended ***are expected to exceed \$500***.

If a candidate completes the affidavit by marking Box B and later either contributions or expenditures exceed \$500, within five (5) days the candidate must file (with the Commissioner of Political Practices and with the county election administrator) a Candidate Campaign Finance Report (Form C-5). [ARM 44.10.407(2).]

PREPARING REPORTS

Required forms.

Campaign finance reports are to be filed on Form C-5. Large contributions from a single source received between the last reporting day included in the pre-election report and election day are to be reported on Form C-7. Following the filing of a closing report, the disposition of surplus campaign funds is to be reported on Form C-118. These forms and instructions (along with other pertinent information) are available on the Commissioner's website.

A candidate having data processing availability may submit computer-generated reports instead of using state forms if these reports provide the information required and ***if the information is in the same format*** as state reporting forms.

FORM C-5. CANDIDATE CAMPAIGN FINANCE REPORT (and C-5 Schedules)

Form C-5. First Page: Filing Designation.

A candidate should indicate if the report is an original filing or an amended filing by checking the appropriate box.

Form C-5. First Page: Name, Address, and Office Sought.

The full name of the candidate as it will appear on the ballot should be entered together with his or her complete mailing address and a complete description of the office being sought.

Form C-5. First Page: Reporting Period.

The time period covered by the report may be found on the calendar available on the Commissioner's website, or the time period may be determined by consulting MCA §§ 13-37-226 and 228.

The time periods covered for all reports (initial and periodic) include up to the fifth day before the due date of the appropriate report. All accounts must be current up to the fifth day before the due date. A closing report covers the period from the last report to the final closing of books of the candidate. ***All campaign debts must be paid before a closing report can be filed.*** [MCA § 13-37-228(3).]

Form C-5. First Page: Cash Summary: Money Received and Spent.

This part of the report summarizes only cash transactions for the reporting period and ***does not include in-kind contributions***. The summary documents totals from the schedules of Form C-5. Care must be exercised when transferring totals from schedules to the Cash Summary to ensure totals from "Primary" and "General" columns are accurately entered.

Line 1 in the summary, CASH IN BANK, is the ending balance of the previous report

(or zero if this is the initial report). Any discrepancy between the previous ending balance and the beginning balance for the current reporting period must be explained. Please note that the beginning balance (cash in bank) includes ***all*** accounts and funds (checking, savings, payroll, money market, and certificates of deposit).

Line 2, RECEIPTS for the reporting period, is added to CASH IN BANK; then CORRECTIONS from Schedule D is entered as either an addition or subtraction on line 3. The resulting Subtotal is then entered.

Line 4, EXPENDITURES for the reporting period, is entered and then subtracted from the Subtotal, resulting in the ending balance CASH IN BANK, line 5. This balance should correspond with the candidate's accounts as of the closing date of the reporting period; that is, the fifth day before the report is due.

Form C-5. First Page: Certification.

An original signature by the appropriate individual (previously authorized on the Statement of Candidate filed with the Commissioner and the county election administrator) certifies the report with all attachments is complete and correct.

Form C-5. Schedule A: Receipts

Section 1. Candidate's Personal Contributions.

As indicated, this space is to record a candidate's own contributions to the campaign—both monetary and in-kind; however, if the candidate expects to be reimbursed from the campaign account for his or her contributions, the contributions should be recorded and reported as a "loan." [See page 11 of this manual.]

Section 2. Contributions Less Than \$35 Each.

The totals of all contributions from ***individuals*** who each contributed less than \$35, monetary and in-kind, are reported here as lump sums; however, a record should be maintained for each individual who has contributed less than \$35 to date because, among other reasons, the individual's contributions might reach the \$35 reporting threshold later in the campaign.

Section 3. Loans.

Any loan, of whatever amount, made to the campaign during the reporting period is recorded here—even if the loan is repaid during the same reporting period. (Any repayment for a loan would be reported in Schedule B as an expenditure.) The date of the loan also is required.

Section 4. Interest, Rebates, Refunds, Other Miscellaneous Receipts, and Fundraisers.

This section is used to report all types of receipts, some of which are not actual campaign contributions. The most common of these are interest earned from the campaign account, rebates, and refunds. (An example of a rebate would be a ten percent rebate given by a vendor for a bill that was promptly paid.)

In addition, total receipts from a fundraiser ***for receipts of less than \$35*** should also be reported here. These fundraiser receipts may be lumped together and reported with: (1) the date of the fundraiser, (2) a description of the fundraising event, and (3) the approximate number of people attending.

Each fundraising event should be reported separately. The gross receipts from a fundraiser should be reported in this section; however, any expenses associated with a fundraiser should be reported in Schedule B as expenditures.

Section 5. Political Action Committee Contributions.

All contributions received from political action committees, regardless of amount, including both monetary and in-kind, should be reported here. The **full registered name** of the political action committee should be used; and the complete mailing address and the date the contribution was received must be reported. Use this portion of Schedule A to report any **earmarked committee contributions**, of whatever amount, in the name of the original donor.

Candidates should be aware of the limitations on amounts that may be received from any PAC. [MCA § 13-37-216(2); and see pages 10 through 12 of this manual.] Legislative candidates must keep in mind the **aggregate** limitations they may receive from all political action committees. [ARM 44.10.331; and see page 16 of this manual.]

Section 6. Political Party Committee Contributions.

All contributions received from political party committees, regardless of amount, including both monetary and in-kind, should be reported here. The **full name** of the political party committee should be used; and the complete mailing address and the date the contribution was received must be reported. Use this portion of Schedule A to report any **earmarked committee contributions**, of whatever amount, in the name of the original donor.

Section 7. Incidental Committee Contributions.

All contributions received from incidental committees, regardless of amount, including both monetary and in-kind, should be reported here. The **full registered name** of the incidental committee should be used and the complete mailing address and the date the contribution was received must be reported. Use this portion of Schedule A to report any **earmarked committee contributions**, of whatever amount, in the name of the original donor.

Section 8. Other Political Committee Contributions.

All contributions received from any other political committees, regardless of amount, including both monetary and in-kind, should be reported here. The **full name** of the committee should be used and the complete mailing address reported. Use this portion of Schedule A to report any **earmarked committee contributions**, of whatever amount, in the name of the original donor.

Section 9. Individual Contributors of \$35 or More.

All contributions from individuals (both monetary and in-kind) of \$35 or more should be reported here. Note: **only one name** is to be listed for each individual contribution. A contribution drawn on a joint checking account should not be reported in the names of the individuals printed on the check but should be reported in the name of the person who **signed** the check, unless there is written authorization by the parties to split the contribution. Even if the amount of the contribution written on the check is to be split, the amount on the check should be divided and reported as two separate individual contributions.

Contributions for the specific reporting period should be listed in the appropriate “primary” or “general” column, with aggregate totals for each individual shown in the last column. (If an individual has made only one contribution of \$35 or more, then the “Total to Date” column would be the same amount.)

It is important to show aggregate totals for individual contributions, not only because the law requires such information but also to ensure that legal limitations are not exceeded.

Form C-5. Schedule B: Expenditures

Section 1. Petty cash.

The total of all checks written to petty cash for the period should be reported in this section. No further itemization of petty cash expenditures is required on the reporting form; however, receipt vouchers for money spent should be attached to checks drawn to replenish the fund. [See page 19 of this manual.]

Section 2. Other Expenditures.

All other expenditures of the candidate must be listed giving the full name and complete mailing address to whom paid, as well as purpose, date, and amount. Several expenditures to the same payee may be listed under one entry for the payee, but dates and amounts must be separated.

Payments made on loans also should be reported as expenditures as well as any bank service charges appearing on an account statement. As with the instructions for receipts, all expenditures should be reported in the appropriate “primary” or “general” election column.

Form C-5. Schedule C: Debts and Loans Not Yet Paid.

This portion of the reporting form is used to show all unpaid debts of whatever amount. The full name and complete mailing address of the individual or business to whom the debt is owed, the nature of the debt or loan, the date incurred, and whether the obligation is for the primary or the general election must be reported. Debts and obligations must continue to be reported so long as they remain outstanding. Unpaid loans are also reported here.

NOTE: If the exact amount of a debt or obligation is not known, the estimated

amount owed shall be reported. [ARM 44.10.525(2).] For example, if the campaign has purchased brochures, but an invoice has not been received and paid before the end of the reporting period, the amount (or the estimated amount) of the campaign's outstanding obligation must be reported.

Form C-5. Schedule D: Corrections.

The purpose of this section of the report form is to correct information that previously has been reported incorrectly. For instance, a person's name or address might have been incorrectly listed in an earlier report or a wrong payee might have been reported.

This schedule should ***not*** be used to report rebates or refunds. Rather, rebates and refunds should be reported in Schedule A, Section 4.

FORM C-7. NOTICE OF PRE-ELECTION CONTRIBUTIONS

A Form C-7 should be filed to report any large contributions to a candidate from a single source ONLY FOR THE PERIOD between the last reporting day included in the pre-election report and election day.

- Any statewide candidate must file a Form C-7 if \$200 or more is received from a single source between the 10th day before an election and the date of the election; this report must be filed within 24 hours of receipt of the contribution.

- Any other candidate (including legislative candidates) must file a Form C-7 if \$100 or more is received from a single source between the 17th day before

an election and the date of the election; this report must be filed within 48 hours of receipt of the contribution. [MCA § 13-37-226.]

Please note that all information reported on Form C-7 must be included on the next C-5 report that is filed

FORM C-118. DISPOSITION OF SURPLUS CAMPAIGN FUNDS

Within 120 days of filing a closing campaign finance report, a candidate must dispose of any surplus campaign funds. [MCA § 13-37-240(1).]

Within 135 days of filing a closing campaign report, Form C-118 must be filed reporting the disposition of the surplus funds. [ARM 44.10.335(5).] This supplemental report must be accompanied by copies of all receipts from all recipients of any surplus campaign funds. [ARM 44.10.335(4)(d).]

A candidate may not contribute surplus funds to another campaign, including the candidate's own future campaign, or use the funds for personal benefit. "Personal benefit" means a use that will provide a direct or indirect benefit to the candidate or any member of the candidate's immediate family. [MCA § 13-37-240(2).]

Examples of permissible uses of surplus campaign funds are:

- (a) the return of funds to a contributor;
- (b) the donation of funds to any organization or entity; and/or
- (c) upon election, use of the funds to establish an account to serve a public purpose related to the officeholder's public duties. (Although not defined as such in statute, this account often is referred to as a "constituency account.")

REFERENCES

¹An excepted school district is " (1) a first-class district located in a county having a population of less than 15,000; (2) a second- or third-class district; or (3) a county high school district having a student enrollment of less than 2,000." Excepted special districts include, but are not limited to, "a conservation district, a weed management district, a fire district, a community college district, a hospital district, an irrigation district, a sewer district, a transportation district, or a water district." [MCA § 13-37-206.]

²Several deputy treasurers may be appointed, but no more than one in each county in which a candidate or committee takes part in an election.

³ For more complete information on secondary depositories and access to them by deputy treasurers, see MCA §§ 13-37-202 and 13-37-205.

⁴Money borrowed from a lending institution is considered to be from the person who is the obligor on the note and not from the lending institution itself. [ARM 44.10.515.]

⁵In addition to the offices of Governor/Lt. Governor, statewide offices include Attorney General, Auditor, Secretary of State, Superintendent of Public Instruction, Supreme Court Justices, and Clerk of Supreme Court. (*Candidates for District Judge, Public Service Commission, State Senate and State House are state district candidates.*) The \$130 contribution limit applies to all but statewide candidates.